THE WILMINGTON JOURNAL

WILMINGTON, N. C.,

SATURDAY, JANUARY 22, 1870.

To Unbosom Himself.

Judge Jerry Black, who was Mr. Buchanan's Attorney General and Secretary of State after General Cass's resignation of that office, is preparing a statement, which will be made public in a few days, giving a history of the occurrences from November to the 4th of March preceding Mr. Lincoln's inauguration, concerning the action of the administration, in its endeavors to reinforce Fort Sumter, and the position which he and the late Edwin M. Stanton maintained regarding that matter. He will make known a portion of the secret history of that period, which will, of course, be interesting.

The Fifteenth Amendment.

Twenty-five States have now ratified the Fifteenth Amendment. Texas is required to do so before she will be admitted into the Union—so too will Georgia. So that but one State will remain to make the required number. Ohio probably ratified the Amendment yesterday. But New York has withdrawn its assent. If this action is recognized there must be still another State added to those ratifying the Amendment. If it becomes necessary, Tennessee can and will be taken in hand as Georgia has been, and by this means the *consent of the governed* will have been obtained *nolens volens* to the proposed Amendment. Hail Columbia! Land of the Free!!

The Poor Needle-Women.

It is stated that there are fifty thousand women in New York city who are attempting to keep off starvation with the little point of a needle, and whose wages do not average half a dollar a day, while many, by twelve or fourteen hours' work, do not make more than twelve cents. Is not this exaggerating a little? If it be true, it is a terrible tale of suffering which should evoke the sympathies of all the benevolent-minded people of the country. The right of woman to work and her right to be paid the worth of that work is undenied; and though it may be argued by some that other so-called rights, as suffrage, &c., are necessary to secure this, yet it is certain that those most prominently urging the ballot for women are not such as we would expect to do any real work, that is to engage in any useful or practical calling. This class is of the genus politician, who would live by the labor of others.

Operations of the "Ring."

We give editorial prominence to the following article from the Raleigh *Sentinel*, to let our people see something of the operations of "the Ring," and to explain the reason the friends of "the Ring" voted for the Resolution instructing the Treasurer not to pay any more interest due on the "Special Tax Bonds."

Says the *Sentinel*: About ten days ago we were informed by a gentleman who spoke confidently on the subject, that within two weeks from that time, the Radical "Ring" men in this State would, in pursuance of a plan concocted between them and their co-adjutors in New York, take steps to repudiate the new special tax bonds of this State. That this would be done as soon as the accrued interest on bonds in the hands of certain parties was paid. The proceedings in the Legislature yesterday, verified the prediction.

On yesterday the Legislature passed a resolution instructing the Treasurer not to pay any more of the interest due on the *special tax bonds*. This extraordinary move is not understood by many outside of the "Ring." This is the explanation, briefly: the "Ring" have *used the bonds*, and can't account for them. This resolution will have the effect, and is so intended by its real authors, to put the bonds *down to five or ten cents in the dollar*, and now the "Ring," in need of the bonds to make up their accounts, will be able to buy up all that are needed at the depreciated price brought about by this resolution; but few of the members of the Legislature understood its purpose, or knew where it came from. Even its author did not know its design. However innocent may have been the intention of the Legislature, this resolution is the handiwork of the "Ring," to make money and to save themselves when the day of reckoning shall come.

If Littlefield and the "Ring" had sold the bonds held by the Western North Carolina Railroad Company, as they are charged with having done, at 50 or 60 cents in the dollar, and used the money for their own purposes and Florida speculations, they can buy back their bonds now at 5 or 10 cents in the dollar, and be all ready to *account* for the bonds they have misapplied, and realize by the operation 40 or 45 cents in the dollar on millions of the bonds.

This is wise legislation! At the last session they passed bills oppressively taxing the people; the money has been collected, and they now stop the Treasurer from paying it out! Such legislation is worthy of Chicken Stevens, Cuffee Mayo and Sleepy Downing. While the action is self-condemnation by the Legislature, it will relieve the people of a burden and the "Ring" from an unpleasant dilema.

The "Ring" will now be able to buy and pay for the North Carolina Railroad, which is the only unfinished business before the Legislature.

Hurrah for Governor Holden and his State Printer! Hurrah for the "Ring" and the Rogues! God save the State and help a ruined people!

General Lee.

The Committee of Invitation have asked General LEE to attend the funeral of GEORGE PEABODY, and the Trustees of Washington College, over which he presides, requested him to comply with the invitation. The feeling displayed in Massachusetts, if we can judge by what we find in the New England papers by the prospect of General LEE's visit, is most gratifying. Should he attend we believe he will be one of the most honored participants in the ceremonies. He will be received not only as becomes the mournful occasion but with respect due to the distinguished soldier and Christain gentleman.

How much the asperities and prejudices of war could de softened, and how much good feeling engendered between the sections by displaying to the representative men of the South that spirit of kindness and consideration due from and to citizens of a common country.

Reconstruction of Massachusetts.

A petition has been forwarded to Hon. S. S. Cox, member of Congress from New York, signed by numerous citizens of Massachusetts, praying that their State be remanded to a territorial government for its treasonable course in 1842, its unrepublican denying of the right of suffrage to those who cannot read or write, and for its connection with the Hartford Convention. Mr. Cox has presented the petition to Congress.

There is no part of the Union so much needs reconstruction as New England; but as she at present, through her home representatives and her carpet-baggers from the South, rules the country, we cannot expect to see justice meeted out to her; but after the census returns of this year are received, and the sceptre passes from the Eastern States, we may expect to see that section taken in hand, for when legislation is directed for the benefit of the whole country, and not controlled in the interests of the monopolies of New England, they will be sure to kick up a fuss, forgetting that they live under the best government the world ever saw.

Term of General Assembly.

We publish elsewhere the late opinion of Chief Justice PEARSON, in which Justice DICK concurs, in regard to the tenure-of-office of the members of the present General Assembly. He bases his opinion that there must be an election for members of the Legislature upon substantially the same grounds advanced by the JOURNAL in the several articles which have appeared in these columns, and justifies his action in giving his opinion at the request of the General Assembly upon the precedent set in the action of the Supreme Court in the contested election case of Berry and Waddell, in 1849, to which we referred and from which we quoted.

We suppose if there was one sensible man in the State who honestly believed that under the Constitution the members of the present General Assembly continued in office until 1872, this very clear argument of Judge PEARSON would satisfy him of his error. In looking calmly and dispassionately at the two clauses of the Constitution which relate to the tenure-of-office of the members of the first Legislature elected thereunder, and see how repugnant they are to each other, it does seem that either Judge Tourgee says truly in declaring that one was so worded purposely to permit the members to hold over by a nicely constructed fraud, by a collusion between himself, Sweet and Heaton, or that he did it himself without conference with others. It does seem strange that an article so ambiguous and unnecessary could have honestly or accidentally gotten into the Constitution.

We do not think the letters of Justices READE, RODMAN and SETTLE need to be published. Judge READE argues to show that the Constitution forbids him to answer the question propounded by the General Assembly under the general provision that the "Legislative, Executive and Judicial departments of the Government shall be forever separate and distinct."

Justice RODMAN occupies substantially the same ground. He regards the question exclusively as a *political* one, and can never be made directly or indirectly a legal question, or a subject of judicial determination. He attempts to please both wings of his party by telling one that if they "do hold over, and continue to sit and enact laws, being *de facto*, in possession of the legislative power, and recognized by the Executive department of the government, I know not by what authority the Courts could refuse to obey your statutes," and we suppose if this same body should decide to hold over for twenty years, and should retain Justice RODMAN in office and pay his salary promptly, he could not possibly see how the Courts or the people could rid themselves of the usurpers. He tickles the other by telling the members to pursue that course which they may think the people intended when they were elected, and that they ought to give the people the benefit of any doubt they may have on the subject.

We have previously thought that Justices RODMAN and READE do not feel perfectly secure of their position in the Radical party. We have too high an opinion of their legal abilities to suppose that the one could write and the other approve the silly trash contained in the Homestead decision, had they not been forced to it by the "unconscious bias of pressing circumstances," so facetiously intimated by the Chief Justice in his dissenting opinion. We notice that some Judges grow very jealous of the dignity and independence of the Bench when the welfare of their party is involved, but rush into politics under the excitements of "drums and flags" when their party is to be benefited.

Justice SETTLE does not say much, but then Justice SETTLE does not know much. He is personally interested and probably ought not to give an opinion. If the present Legislature holds over he expects Senator ABBOTT's seat, and it is expecting too much even of such a patriot as Justice SETTLE to furnish a stick to break his own head. He curtly declines to give an opinion.

"Reaping the Whirlwind."

It was hardly possible to suppose that the frauds and corruptions which have destroyed the credit of the State should not also effect that of counties and towns. Nay, too frequently similar corruptions, and in every instance equal extravagance, have disgraced the administration of Radical County Commissioners and city Mayors and Aldermen. What sane man supposes that it requires one hundred and forty thousand dollars to govern this city, if honest, capable and trustworthy men controlled its affairs. Yet such is the sum expended last year by our city officials. Can there be any surprise that our bonds, bearing six per cent. interest in gold, should not command more than seventy cents in the dollar in currency. There can be no prosperity for State, county or city, until extravagance and corruption in their administrations shall cease.

It seems that Craven county has become a victim to the ignorant and dishonest Radicalism which governs it, and reaps its reward in the following manner, as we learn from the organ of Radicalism in Newbern, the *Times*:

"Judge Thomas discharged the jury drawn for attendance on the present term of the Superior Court, because they did not wish to take 'county script,' it not being negotiable. The Judge ordered a jury from the city who can serve and board at home."

How rapidly and how well is Radicalism doing its damning work of destruction. Like the poisonous Upas, nothing flourishes under the influence of its deleterious shade.

Northern Democrats and Southern Radicals.

Upon the same day there were presented similar scenes in Albany, New York, and Atlanta, Georgia, the Capitals respectively of those two States. Similar and yet how diffierent. In Albany the members of the General Assembly, elected by the free people of the Empire State, under laws and regulations adopted by themselves, met together as the representatives of a free people. No federal soldier was present unless as a spectator. The sword was powerless in the presence of the representatives of the civil authority. Each House is the judge of the qualifications of its own members and sits upon its own adjournment.

In Atlanta also the members of the General Assembly of the Empire State of the South met on the same day. Whites and blacks, honest men and convicted rogues, citizens and vagrants came together by the orders of a Federal General. Over the Hall in which they sat floated the "flag of the Country," not as the emblem of the "land of the free and the home of the brave," but the esignia of the military power of the government. The city resounded with the tramp of Federal soldiery, and bright bayonets bristled threatningly before the eyes of these fettered legislators. Military Commissions sit in judgment upon the qualifications of members of both Houses, and they assemble and adjourn by order of the Military Commander.

Such is Republican government under Democratic control, and such is Republican government under Radical control.—One embraces the embodiment of a government resting on the consent of the governed; the other is the shadow of Tyranny and Military Despotism.

The opinions which emanate from these two representatives of Republican government are as different as was their manner of assembling and organization. From one we have the bugle-sound of freedom, which thrills and inspires the patriot; from the other the mutterings of tyrants bent upon the destruction of the rights of the people. One proclaims that the United States is and shall continue to be a government of the people: the other announces the death knell of a Representative Democracy. One speaks as the fearless representative of a free and honorable people should speak; the other blusters and brags as the ignorant and guilty tools of revolutionists and factionists are wont to do to hide their ignominy and crime. One announces its position with the truthfulness, force and intelligence which Right and Justice and Law give their devotees; the other shouts with the ignorance and rage which Wrong and Injustice and Lawlessness torture their victims.

In Georgia Military Radicalism places over the Senate for its presiding officer as the exponent of the party and power to which he owes his official position Benjamin Conley, who under the political pupilage of Governor Bullock, the Radical Congress and President GRANT, announces by authority that "the GOVERNMENT HAS "DETERMINED that in this Republic, which "is not, never was, and never can be a "Democracy—that is, this Republic, RE-"PUBLICANS SHALL RULE." We do not know which most to wonder at, the sublime literary excellence of the extract, its imperial impudence or its political significance. It means, if it means anything, that President GRANT and Congress, for they constitute "the Government" in the vocabulary of Radicalism, have determined that the people shall no longer control the Government; that elections, if permitted in order to go through the forms prescribed by the Constitution, shall be controlled by the Ames' and Reynolds' of the United States army. It means that "Republicans shall rule," peacefully if possible, but forcibly if they must.

In New York a Representative Democracy elects as the speaker of the House Mr. HITCHMAN, who, as if by intuition, replies to the imperial threat of this minion of tyranny, and every true heart in the country echoes a response to his words of patriotism and warning. It might be well for the political freebooters and highwaymen, who now rule the country and threaten the very life of liberty to heed the words. Says Mr. Speaker HITCHMAN:

We find Congress centralizing in itself all the powers of the government, executive and judicial, as well as legislative; and the dangers which the fathers of the Republic apprehended as a possibility are already upon us as an existing fact. The separation and independence of the several powers of the government were regarded by the framers of the constitution as the only guarantee of the liberties of the people.—The legislative authority at Washington has broken down, step by step, the powers of the Supreme Court of the United States, so that Congress has become omnipotent. Without question as to constitutionality of its acts, amendments to the constitution surrendered to Congress, powers essential to the States for the maintenance of Republican government and the liberties of the people, are enforced by military authority and States are created, destroyed, and re-created accordingly as they submit to or oppose such aggression.

The right of the State to regulate elections, and everything connected with them, was very justly regarded as a fundamental article of republican government. It was left to the States to be fixed by their constitutions. By a pending amendment, attempted to be forced on the States in the manner I have indicated, Congress is conspiring to grasp and control this right, so that a body of men elected for a temporary period and maintaining their seat of power at a distant point from the great body the people, may, by force of fraud, change the republican character of our government, perpetuate themselves in authority, and set the people at defiance. It will be one of your first duties to consider whether the State of New York will consent to this usurpation.

Abuses of the elective franchise in localities cannot continue while the power is in the hands of the people. They must and will be speedly remedied. *But the surrender of the whole subject of suffrage to a centralized power at Washington, which will merely have to decree the result of an election as perpetuating them as the government, without question or redress, will never be submitted to by the people.* When would such usurpers decree themselves out of power?—It has been said that a State cannot withdraw its consent to such an amendment once given, however inconsiderately, even though the requisite number may not be obtained for a century. This cannot be. Let New York, when the roll of States is called, announce that she does not consent to the amendment; and let Congress count her as consenting if it dare.

HORTICULTURAL AND POMOLOGICAL.—A meeting of gentlemen desirous of forming an Horticultural and Pomological Society for this section was held in the office of the President of the First National Bank in this city yesterday afternoon. Present—Col. W. L. Steele, of Richmond; Col. T. S. Memory and Capt. J. W. Ellis, of Columbus; Col. Jno. D. Taylor, of Brunswick; Louis Froelich, of Duplin; L. A. Hart and Dr. W. W. Lane, of New Hanover.

Col. Steele was called to the Chair and Capt. Ellis requested to act as Secretary.

On motion of Col. Taylor a committee of five was appointed to draft a constitution and plan of organization. This committee was made to consist of Cols. Steele, Memory and Taylor, Dr. Lane and Mr. Hart.

Each gentleman present was constituted a committee to extend an invitation to all parties interested to attend the next meeting, which is to be called by the Chairman.

On motion the meeting adjourned, after having sampled some excellent wine exhibited by Mr. Froelich.

Daily Journal 22d.

CAPE FEAR AGRICULTURAL ASSOCIATION.—At a meeting of the Executive Committee of this Association last night eleven members were present, Col. S. L. Fremont, the President, in the Chair.

The salary of the General Secretary was fixed at $200. [The duties of this officer include those of Corresponding Secretary and General Superintendent.

Major J. A. Engelhard was elected to this position by acclamation, on motion of Dr. S. S. Satchwell.

A special committee of three on Publication was appointed, consisting of Cols. W. L. DeRosset and W. L. Smith and Dr. S. S. Satchwell. This committee have in charge the publication of a pamphlet containing the proceedings at the late Fair, meetings, essays, etc., and are to decide as to what shall be published.

Majs. J. A. Engelhard and J. C. Mann were appointed a committee to prepare a design and views for the Diploma of the Association.

The President was requested to submit at the next regular meeting a plan for the sub-division of the members of the Executive Committee for different branches of duty.

The Treasurer was authorized to borrow $3,000 from time to time in such sums as the necessities of the Association may demand.

The Secretary was directed to request Railroad and Steamboat Companies to pass the members of the Executive Committee to and from monthly meetings.

The second Friday of each month was selected as the occasion for the regular meetings of the Committee.

The Secretary was directed to apply for the use of the Chamber of Commerce Hall for the meetings of the Committee.

On motion the meeting adjourned.

Daily Journal 22d.

THE CLERKS of the Superior Courts in this State held a convention in Raleigh last week, and formed a permanent organization for the purpose of ensuring a systematic procedure in the various counties, and for mutual protection.

The following are the officers elected for the ensuing year:

President—J. C. Mann, of New Hanover.

Vice President—I. E. West, of Craven.

Treasurer—A. Clapp, of Guilford.

Secretary—G. J. Robinson, of Wayne.

Council of Administration—Messrs. Osborn, of Mecklenburg; Albright, of Alamance; Gregory, of Halifax; Summers of Iredell; and Betts, of Granville.

Labor in the South—Letter from Gen. Lee.

The following letter from General Robert E. Lee was lately addressed to Colonel Thomas H. Ellis, president of the Virginia Immigration Society:

LEXINGTON, VA., 30th Dec., 1869.

My Dear Sir:—The question of supplying labor to the South is one of vital importance, in which all classes are concerned, and particularly the agriculturist, inasmuch as regular and constant work is more necessary to his prosperity than in most of the other industrial pursuits. I believe this can only be secured by the introduction of a respectable class of laborers from Europe; for although temporary benefit might be derived from importation of the Chinese and Japanese, it would result, I fear, in eventual injury to the country and her institutions. We not only want reliable laborers, but good citizens, whose interests and feelings would be in unison with our own.

State immigration societies, composed of men prompted by the patriotic motive of benefitting the country, would accomplish this object better than by any other mode. By introducing worthy immigrants, providing for their comfort and security on arrival, and assisting them when necessary to their new homes, a sufficient supply of honest, steady, willing men would soon be secured.

I believe experience has proved that the practice of employing entire families produces more contentment and permanency among them, and where a number are collected into a community upon neighboring farms they are better satisfied and give greater satisfaction.

I am glad to find that this important subject is claiming your attention, and I hope that the Virginia Immigration Society may be able to adopt a plan for procuring for the State and such others as may co-operate with her, a regular supply of hardy, healthy immigrants.

Your plan of providing a depot within our borders, where they can be received on landing upon our shores, and where their necessary wants can be supplied, is eminently wise, and in my opinion, necessary; and I should rejoice to see a plan in successful operation calculated to develop the wealth and to promote the prosperity of the South.

I have been and still am an advocate of European immigration, but do not see in what other way I can aid it.

With much regard, your obedient servant,

R. E. LEE.

TERM OF GENERAL ASSEMBLY.

OPINION OF CHIEF JUSTICE PEARSON.

STATE OF NORTH CAROLINA,
SUPREME COURT,
Raleigh, Jan. 10th, 1870.

To the Honorable Tod R. Caldwell, Lieutenant Governor, ex officio President of the Senate, and the Honorable Jo. W. Holden, Speaker of the House of Representatives:

The joint resolution of the Senate and House of Representatives, requesting the Justices of the Supreme Court, in substance, to give their opinions as to the terms of the present members of the General Assembly, that is, according to the provisions of the Constitution do they hold their seats until the first Thursday in August 1872, or are other members, to be elected on the first Thursday in August 1870?—has received full consideration.

The question is more easy of solution now, when it can be treated as a dry matter of constitutional law, than it might be hereafter when complicated with collateral considerations. Should the General Assembly, for the two years referred to, be composed of new members, and it turns out that the body ought to have been composed of the present members, there will be a state of confusion. On the other hand, should the General Assembly, for the two years referred to, be composed of the present members, and it turns out that the body ought to have been composed of new members, there will be the like confusion; so it is of importance to have the matter settled at the outset.

A preliminary question presented itself—do the constitutional duties of the Justices forbid a compliance with this request of the General Assembly?

I am relieved from all doubt by the precedent in the matter of Waddell *vs.* Berry, 9 Iredell's reports, appendix—which is in point. There the right to *a seat in the Senate* was contested and the Judges of the Supreme Court, at the request of the Senate, expressed opinions not as a *Court* but as *Judges*, as to the right of certain citizens to vote; and this action of the Judges is put on the ground that the main purpose being to determine the right to a seat in the Senate, although "not an act of official obligation the Judges deemed it a duty of courtesy and respect" to comply with the request. Here the main and only purpose is to aid the General Assembly to determine the right to *all of the seats in both Houses*. So the question is of the same character and of much greater magnitude. The action of the Judges of the Supreme Court in giving an opinion on the meaning of the word "crime," at the request of Governor Worth, is also a precedent in point. (See "In the matter of Hughes, Phillips' Reports, 64.") The action of the Justices of this Court in declining to express an opinion, at the request of the General Assembly, in regard to a Homestead Act, affecting pre-existing debts, is not relevant to the subject now under consideration, for it is put on the ground that the question involved "the rights of property," and "would in all probability come before the Court for decision," and the Justices were of opinion that their constitutional duties did not permit them to prejudge it.

The Constitution fixes the terms of office as a general and fundamental principle—that is to say—of the Governor four years—of the Justices of the Supreme Court, (I confine myself to these to avoid prolixity) eight years—of the members of the General Assembly two years. Whoever alleges an exception to this general principle must assume the burthen of proving it. 1. In regard to the Governor, justices and members, elected at the first election, a reason appears on the face of the instrument for making an exception to the extent of adding a few months to the beginning of the terms. This election was ordained to be held "when the vote shall be taken on the ratification of the Constitution," which would be more than two years before the first regular election, and it was necessary to add some time to the beginning of these terms, to make the subsequent terms fit in and run on smoothly. So this exception is admitted.

2. In regard to the Governor, a reason appears on the face of the instrument, for also adding from August to the first day of January next ensuing, to the end of this term—his successor is not to be inaugurated until that day. So this exception is admitted.

3. In regard to the Justices of the Supreme Court, no reason appears on the face of the instrument for making an exception by also adding two years to the end of their terms—and in the absence of a reason, it will require words so plain and positive as to admit of no other reasonable construction, to have that effect—Article 4, section 32, of the Constitution, is relied on:

"The officers elected at the first election held under this Constitution shall hold their offices for the terms prescribed for them respectively, next ensuing after the next regular election for members of the General Assembly. But their terms shall begin upon the approval of this Constitution by the Congress of the United States."

The next regular election for members of the General Assembly is to be held on the first Thursday in August, 1870—Article II, section 29. So the Justices are to hold their offices for the terms prescribed for them respectively, "*next ensuing after*" that date. These words are plain and positive and admit of no other construction. There is no other section which conflicts with or can controvert this construction, and it will be observed the wording differs very materially from that in respect to the members of the General Assembly. I am led to this conclusion, although no reason for adding to the term appears on the face of the Constitution, simply because *it is so written*. This is the only matter which has any weight in my judgment, in support of the position that some time is also to be added to the end of the terms of the members of the General Assembly elected at the first election, and a full and candid exposition of my conclusion upon that subject, made a reference to this necessary and proper.

4. In regard to the members of the General Assembly no reason appears on the face of the instrument for making an exception by also adding two years to the end of their terms, in fact, giving them two terms instead of one, and, in the absence of a reason, the question is narrowed down to this: Does the Constitution use words so plain and positive as to admit of no other reasonable construction? The *onus* is on those who allege an exception, and the burthen is made heavier (as we shall see) by a provision in direct opposition to a double term.

To sustain the exception the second clause of section 27, of Article II, is relied on. It is in these words:

SEC. 27. The term of office for Senators and members of the House of Representatives shall commence at the time of their election; and the term of office of those elected at the first election held under this Constitution shall terminate at the same time as if they had been elected, at the first ensuing regular election."

The words of the second clause are general and vague; and to make sense of it, the rules of construction must be resorted to. "First ensuing regular election"—"*ensuing*" what date? the adoption of the Constitution, or the first election of members of the General Assembly? It is not necessary to say which, as both took place on the day.—"Election" of whom? of members of the General Assembly—that being the subject on hand, this clause should read:

The term of office of those elected at the first election held under this Constitution shall terminate at the same time as if they had been elected at the first regular election of *members of the General Assembly*, ensuing *the adoption of this Constitution*. Filling up the sense in this way, the meaning turns on the word "election." An election is the act of choosing, and taking the word literally new members are to be actually elected at the first regular election ensuing the adoption of the Constitution, at which very time by a fiction the members before elected are to be considered as having been elected. And the effect of this election of new members, according to the first clause of this section, "the terms of office of Senators, &c., shall commence at the time of their election,"—and the last clause of the 29th section, "the members then elected shall hold their seats until their successors are elected at a regular election,"—will be to put an end to the term of the first set of members the very instant they are, by a fiction, supposed to be elected—the fiction having answered the purpose of adding a few months to the beginning of their terms.

This is clearly the result of a literal construction. To meet the difficulty, it is said the word "election" is not to be taken literally or to imply an actual election of new members, but, by a fair construction as having reference only to the regular time *holding* the ensuing election, which, however, is not actually to be held, and it ought to be read the "first ensuing election *day*." There is nothing whatever to support this construction. The 27th section taken by itself, does not sustain an exception to the general principle, and looking at other sections the construction contended for is not only unsupportable, but is excluded, for (passing by the 28th section, which has no bearing, and is evidently out of place) the 29th section provides:

"SEC. 29. The election for members of the General Assembly shall be held for the respective districts and counties at the places where they are now held, or may be directed hereafter to be held, in such manner as may be prescribed by law, on the first Thursday in August in the year one thousand eight hundred and seventy, and every two years thereafter. But the General Assembly may change the time of holding the elections. The first election shall be held when the vote shall be taken on the ratification of this Constitution by the voters of the State, and the General Assembly then elected shall meet on the fifteenth day after the approval thereof by the Congress of the United States, if it fall not on Sunday, but if it shall so fall, then on the next day thereafter; and the members then elected shall hold their seats until their successors are elected at a regular election."

Here it is ordained that an election for members of the General Assembly shall be held at the place and in the manner prescribed by law, *on the 1st Thursday in August*, 1870. The words are plain and positive—there is no room for construction. An election for members of the General Assembly must be held on that day, or else the Constitution will be violated. This is a stubborn fact. It presents an insurmountable obstacle to the construction giving a double term. A new set of members must be elected in August, 1870. If the present members are to hold over, there will be two sets of members for the same term!!! The only mode of escape from this absurdity is either to follow a literal construction of the second clause of the 27th section, by which the terms of the present members terminate at the time of the election of a new set of members, or else to treat it as surplusage—being ambiguous, unnecessary, (for the last clause of sec. 29 covers the same ground,) and conflicting with the 29th section, which is expressed in plain and positive words, is of vital importance, as containing the provisions necessary to put in operation the Legislative branch of the government—and is complete of itself, and needs no aid from the 27th section. I am of opinion that by the true construction of the Constitution the terms of the present members of the General Assembly terminate on the 1st Thursday in August, 1870. Such would be the construction, if it were proved, supposing the evidence admissible, that it was the intention of the makers of the Constitution to give the members elected at the first election terms of four years. "In putting a construction upon an instrument, the question for the Court is, not what the draftsman means, but what the words of the instrument mean.—It sometimes happens, for this reason, that the draftsman is less to be relied on than almost any other person to construe an instrument, whether it be a Constitution, statute, deed, or will." McAdoo *vs.* Benbow, 63 N. C. Reports, 464.

There is another question, which, although not covered by the words of the resolution, grows out of it, and is so intimately connected with the purpose of the question proposed as to call for the expression of an opinion, in order to cover the whole ground.

The 29th section, article 2d, has this clause: "But the General Assembly may change the time of holding the elections." Does this confer power to change the time in respect only to the day, or the month of *years* which are fixed by the Constitution—or to confer power, as well as to change *the years* in which elections for members of the General Assembly are to be held?

The former is the true construction:

1. It harmonizes with the clause next preceding, which requires an election to be held on the first Thursday in August, 1870, and "every two years thereafter," and with sections 3 and 6—Senators and members of the House of Representatives "shall be biennially chosen by ballot."

2. It satisfies the words and gives to them a suitable meaning, i. e., power to change the day or the month, should a change in this respect be deemed expedient; for time, in these particulars, is mere matter of detail, and is not of the essence of the thing.

The latter construction is excluded by many grave considerations:

1. Although the words are broad enough to include power to change the time in respect to *years*, this construction is in direct conflict with the clause next preceding, and with sections 3 and 6. And a construction which confers power on the General Assembly to *alter the Constitution*, is admissible.

2. The connection in which this clause is inserted restricts its meaning, and shows that it is confined to mere matter of detail—the places or manner of holding elections, as by one, two or three Judges, and the like details.

3. It is assumed in the next preceding clause that the General Assembly has power to prescribe the *manner* of holding elections, but this does not extend to the manner of voting *viva voce;* for voting by ballot is a fixed principle of the Constitution, and the power to direct elections to be held annually or every five or ten years, instead of every two years, is as clearly excluded as the power to prescribe the manner of voting *viva voce*.

4. Under this broad construction, the present members of the General Assembly, if so minded, might put off the time of the election for ten, twenty or thirty years, and as by the Constitution they hold their seats until their successors are elected, they may hold their seats as long as it is their pleasure to do so!! Any one looking at the proposition naked, can see its fallacy. The power must be restricted to the day or month, treating the years as fixed by the Constitution, or else it is unlimited. There is no middle ground.

This is the restriction put on members of the General Assembly; but the present members are more restricted. I do not believe they have the power to change the day, or the month, or the year, for it is written in the Constitution—"the election for members of the General Assembly shall be held on the first Thursday in August, 1870."

Respectfully,

R. M. PEARSON.

I concur in the opinion of Chief Justice Pearson.

Respectfully,

ROBT. P. DICK.

New County Movement.

POINT CASWELL, N. C., Jan. 17, 1870.

Dear Journal:—The monotony of our quiet village was broken on Saturday last by the assembling together of the prominent citizens of this section for the purpose of considering the practicability of petitioning the Legislature to cause the division of New Hanover county and establish a new county from the following townships, viz: Holly, Holden, Caswell, Columbia, Franklin, Lincoln and Union.

Mr. E. A. Hanes was called to the Chair and Mr. John Moore acted as Secretary.

The object of the meeting was stated to be to institute measures necessary for accomplishing the division of New Hanover county.

Dr. Myers, of Lillington, the starter and master spirit in this movement, addressed the meeting in a most effective speech. Hir arguments were unanswerable, clear, logical and truthful. He was followed by Dr. Jas. F. Simpson of Caswell, who advocated the new enterprise in his usual vein, replete with argument, &c. Lawyer Fraiser made a masterly speech favoring the division, and caused the ground to fairly ring with denunciations of all opponents.

On motion it was ordered that a copy of the above proceedings should be given to the Wilmington *Journal*, *Star* and *Post* for publication.

The meeting displayed the most earnest interest in the matter and a full determination to carry the enterprise through.

On motion the meeting adjourned, agreeable to a call in Franklin township on January 20th.

M.

Inauguration of Governor Geary, of Pennsylvania.

HARRISBURG, Jan. 18.—John W. Geary was inaugurated Governor of Pennsylvania to-day. He made a long address. There was a grand procession of the military, the fire companies, &c. Because a colored regiment was allowed in the line, all the fire companies left except two from Philadelphia.

Election in Middletown, Conn.

MIDDLETOWN, CT., Jan. 17.—At our city election yesterday the Democrats elected their candidate for Mayor and a large majority of the city Council for the first time since 1861. They also elected their candidate for Sheriff, Assessor, Collector, and all but one of the Constables. Samuel Babcock, for Mayor, had 65 majority.

Deplorable Condition in South Carolina.

The following is an extract from a letter to a gentleman in Baltimore. The writer is one of the most estimable gentlemen in South Carolina. It is dated January 13, 1870:

"What is to become of this poor State, nobody can do more than conjecture.—You have perhaps not known that at the end of the war the old bank bills brought some ten cents on the dollar—I mean the bank of the State. I had a good many of them and was glad to get that. Gov. Scott and his friends bought up all those bills, then got the negro Legislature to redeem them by State bonds at par, and soon after to enact that these bonds, principal and interest, shall be paid in gold. And so it is in everything. Five or ten dollars will buy, I hear, any vote in the Legislature for anything. They sit for months instead of weeks, as formerly, and vote themselves six dollars a day, instead of three, as before."

The Small Pox in New York—Precautionary Measures.

NEW YORK, Jan. 18.

The board of health report 160 cases of small pox now in the city, confined entirely to the 11th, 17th and a part of the 10th wards, and almost wholly to persons of foreign birth recently arrived in the country. The total number of adult cases since the 1st of October is 800; deaths in November and December, 70. The school children have all been thoroughly vaccinated and the health of the city well protected, so far as they are concerned. In a majority of the cases now prevailing the disease assumes the mild form of variaoid. Every caution has been taken by the board of health to prevent the spread of the contagion.

Part of Louisville Submerged—A Village Destroyed—Loss of Life.

LOUISVILLE, January 18.

All that part of the city lying on the levee, now Fourth street, is completely submerged, and the occupants are busily engaged in removing their property to safe quarters by means of boats.

Prewitts, Ky., was completely destroyed by the storm on Saturday night. John McGowan and his eldest daughter were killed and Mrs. McGowan badly injured. Downer's stable was blown away and a large number of fine horses and mules killed. Dr. J. Wilson and wife, living twelve miles west of Prewitts' Knob, were badly wounded. The storm was general along the Memphis and Louisville and Louisville and Nashville railroads, and considerable damage to property is reported.

A Curious Suit in Buffalo, N. Y.

BUFFALO, Jan. 18.—Judge Verplanck, of the Superior Court, has just decided a novel suit. George A Deakin, for twenty years past a member of the St. Adolphonso Society, a religious benovolent association of this city brought suit to obtain a mandamus to be reinstated to membership of that society, from which he claimed that he had been maliciously expelled for refusing to pay a fine of twenty-five cents unjustly imposed. The judge ordered a peremptory mandamus to be issued reinstating the plaintiff to full membership.

Hon. B. H. Hill.

The fifteen column speech by a carpet-bag Congressman could not combine more practical wisdom and good sense than the Hon. B. H. Hill utters to the people of Georgia in four words: "Do nothing; say nothing." He of course means non resistence, in its most literal sense, to the usurpation of Congress. They cannot "do" anything to avert the blow; they cannot "do" anything which the government will listen to; but the time will sooner or later come when what has been done and said upon the other side will receive its ample retribution.—St. Louis *Times*.

Velvet boots, the color of the dress, are worn with elaborate costumes.